

STATISTICAL INFORMATION ONLY: Debtor must select the number of each of the following items included in the Plan.

☒ Valuation of Security 1 ☐ Assumption of Executory Contract or Unexpired Lease ☒ Lien Avoidance

Last revised: February 8, 2019

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In Re:

CYNTHIA P. HORTA,

Case No.: 18-23600

Judge: CMG

Debtor(s)

Chapter 13 Plan and Motions

☐ Original

☒ Modified/Notice Required

Date: 7/25/2019

☐ Motions Included

☐ Modified/No Notice Required

THE DEBTOR HAS FILED FOR RELIEF UNDER
CHAPTER 13 OF THE BANKRUPTCY CODE

YOUR RIGHTS MAY BE AFFECTED

You should have received from the court a separate *Notice of the Hearing on Confirmation of Plan*, which contains the date of the confirmation hearing on the Plan proposed by the Debtor. This document is the actual Plan proposed by the Debtor to adjust debts. You should read these papers carefully and discuss them with your attorney. Anyone who wishes to oppose any provision of this Plan or any motion included in it must file a written objection within the time frame stated in the Notice. Your rights may be affected by this plan. Your claim may be reduced, modified, or eliminated. This Plan may be confirmed and become binding, and included motions may be granted without further notice or hearing, unless written objection is filed before the deadline stated in the Notice. The Court may confirm this plan, if there are no timely filed objections, without further notice. See Bankruptcy Rule 3015. If this plan includes motions to avoid or modify a lien, the lien avoidance or modification may take place solely within the chapter 13 confirmation process. The plan confirmation order alone will avoid or modify the lien. The debtor need not file a separate motion or adversary proceeding to avoid or modify a lien based on value of the collateral or to reduce the interest rate. An affected lien creditor who wishes to contest said treatment must file a timely objection and appear at the confirmation hearing to prosecute same.

The following matters may be of particular importance. Debtors must check one box on each line to state whether the plan includes each of the following items. If an item is checked as "Does Not" or if both boxes are checked, the provision will be ineffective if set out later in the plan.

THIS PLAN:

☒ DOES ☐ DOES NOT CONTAIN NON-STANDARD PROVISIONS. NON-STANDARD PROVISIONS MUST ALSO BE SET FORTH IN PART 10.

☐ DOES ☒ DOES NOT LIMIT THE AMOUNT OF A SECURED CLAIM BASED SOLELY ON VALUE OF COLLATERAL, WHICH MAY RESULT IN A PARTIAL PAYMENT OR NO PAYMENT AT ALL TO THE SECURED CREDITOR. SEE MOTIONS SET FORTH IN PART 7, IF ANY.

☒ DOES ☐ DOES NOT AVOID A JUDICIAL LIEN OR NONPOSSESSORY, NONPURCHASE-MONEY SECURITY INTEREST. SEE MOTIONS SET FORTH IN PART 7, IF ANY.

Initial Debtor(s)' Attorney: BDA

Initial Debtor: CPH

Initial Co-Debtor:

Part 1: Payment and Length of Plan

a. The debtor shall pay \$ 500.00 per month to the Chapter 13 Trustee, starting on _____ for approximately 36 months.

b. The debtor shall make plan payments to the Trustee from the following sources:

☒ Future earnings

☐ Other sources of funding (describe source, amount and date when funds are available):

c. Use of real property to satisfy plan obligations:

☒ Sale of real property

Description: 34 Bryce Canyon Road, Howell, NJ 07731

Proposed date for completion: December 31, 2019

☐ Refinance of real property:

Description:

Proposed date for completion: _____

☐ Loan modification with respect to mortgage encumbering property:

Description:

Proposed date for completion: _____

d. ☒ The regular monthly mortgage payment will continue pending the sale, refinance or loan modification.

e. ☒ Other information that may be important relating to the payment and length of plan:

The second mortgage of record held by GE Money Bank is invalid, because it was to finance a pool never installed and the contract was cancelled in 2005. No payments have been made and no payments have ever been requested. Debtor filed an Adversary Complaint to obtain an Order in the Bankruptcy Court to discharge the GE Money Bank mortgage. The Debtor filed an application to appoint Re/Max 1st Advantage as the real estate broker. The Debtor will list the property for sale upon entry of the Order approving the broker. The Debtor will pay Capital One Bank and Bank of America in full upon sale of the property, including the balance owed Bank of America on all post petition interest as the balance of the \$32,616.51 due at the time of filing. In the event the GE Mortgage has not been discharged at the time of sale, the \$35,296.50 will be held in escrow pending the discharge of the mortgage. The Debtor must also obtain a Deed from her ex-husband, Alfred Horta, for his ownership interest of the property in accordance with the Judgment of Divorce. His ownership interest will not be used to fund the Plan.

Part 2: Adequate Protection ☐ NONE

- a. Adequate protection payments will be made in the amount of \$ _____ to be paid to the Chapter 13 Trustee and disbursed pre-confirmation to _____ (creditor).
- b. Adequate protection payments will be made in the amount of \$ 1,479.27 to be paid directly by the debtor(s) outside the Plan, pre-confirmation to: Bank of America (creditor).

Part 3: Priority Claims (Including Administrative Expenses)

- a. All allowed priority claims will be paid in full unless the creditor agrees otherwise:

Creditor	Type of Priority	Amount to be Paid
CHAPTER 13 STANDING TRUSTEE	ADMINISTRATIVE	AS ALLOWED BY STATUTE
ATTORNEY FEE BALANCE	ADMINISTRATIVE	BALANCE DUE: \$ A Fee Application will be filed services in the Chapter 13, and the adversary proceeding. The amount to be determined by Court Order.
DOMESTIC SUPPORT OBLIGATION	NONE	\$13,009.79
INTERNAL REVENUE SERVICE	PRIORITY 2015 TAXES	

- b. Domestic Support Obligations assigned or owed to a governmental unit and paid less than full amount:
Check one:

☒ None

☐ The allowed priority claims listed below are based on a domestic support obligation that has been assigned to or is owed to a governmental unit and will be paid less than the full amount of the claim pursuant to 11 U.S.C.1322(a)(4):

Creditor	Type of Priority	Claim Amount	Amount to be Paid
N/A	Domestic Support Obligations assigned or owed to a governmental unit and paid less than full amount.	N/A	

Part 4: Secured Claims

a. Curing Default and Maintaining Payments on Principal Residence: ☐ NONE

The Debtor will pay to the Trustee (as part of the Plan) allowed claims for arrearages on monthly obligations and the debtor shall pay directly to the creditor (outside the Plan) monthly obligations due after the bankruptcy filing as follows:

Creditor	Collateral or Type of Debt	Arrearage	Interest Rate on Arrearage	Amount to be Paid to Creditor (In Plan)	Regular Monthly Payment (Outside Plan)
Bank of America	3rd Mortgage	\$32,616.51	4.74%	\$32,616.51 upon sale	\$1,479.27

b. Curing and Maintaining Payments on Non-Principal Residence & other loans or rent arrears: ☒ NONE

The Debtor will pay to the Trustee (as part of the Plan) allowed claims for arrearages on monthly obligations and the debtor will pay directly to the creditor (outside the Plan) monthly obligations due after the bankruptcy filing as follows:

Creditor	Collateral or Type of Debt	Arrearage	Interest Rate on Arrearage	Amount to be Paid to Creditor (In Plan)	Regular Monthly Payment (Outside Plan)
N/A					

c. Secured claims excluded from 11 U.S.C. 506: ☒ NONE

The following claims were either incurred within 910 days before the petition date and are secured by a purchase money security interest in a motor vehicle acquired for the personal use of the debtor(s), or incurred within one year of the petition date and secured by a purchase money security interest in any other thing of value:

Name of Creditor	Collateral	Interest Rate	Amount of Claim	Total to be Paid through the Plan Including Interest Calculation

d. Requests for valuation of security, Cram-down, Strip Off & Interest Rate Adjustments ☒ **NONE**

1.) The debtor values collateral as indicated below. If the claim may be modified under Section 1322(b)(2), the secured creditor shall be paid the amount listed as the "Value of the Creditor Interest in Collateral," plus interest as stated. The portion of any allowed claim that exceeds that value shall be treated as an unsecured claim. If a secured claim is identified as having "NO VALUE" it shall be treated as an unsecured claim.

NOTE: A modification under this Section ALSO REQUIRES the appropriate motion to be filed under Section 7 of the Plan.

Creditor	Collateral	Scheduled Debt	Total Collateral Value	Superior Liens	Value of Creditor Interest in Collateral	Annual Interest Rate	Total Amount to be Paid

2.) Where the Debtor retains collateral and completes the Plan, payment of the full amount of the allowed secured claim shall discharge the corresponding lien.

e. Surrender ☒ **NONE**

Upon confirmation, the stay is terminated as to surrendered collateral only under 11 U.S.C. 362(a) and that the stay under 11 U.S.C 1301 be terminated in all respects. The Debtor surrenders the following collateral:

Creditor	Collateral to be Surrendered	Value of Surrendered Collateral	Remaining Unsecured Debt

f. Secured Claims Unaffected by the Plan ☒ **NONE**

The following secured claims are unaffected by the Plan:

Capital One, NA
Capital One Auto Finance

g. Secured Claims to be Paid in Full Through the Plan: ☒ **NONE**

Creditor	Collateral	Total Amount to be Paid Through the Plan

Part 5: Unsecured Claims ☐ **NONE**

a. Not separately classified allowed non-priority unsecured claims shall be paid:

☐ Not less than \$ _____ to be distributed *pro rata*

☐ Not less than _____ percent

☒ *Pro Rata* distribution from any remaining funds

b. Separately classified unsecured claims shall be treated as follows:

Creditor	Basis for Separate Classification	Treatment	Amount to be Paid

Part 6: Executory Contracts and Unexpired Leases ☐ NONE

(NOTE: See time limitations set forth in 11 U.S.C. 365(d)(4) that may prevent assumption of non-residential real property leases in this Plan.)

All executory contracts and unexpired leases, not previously rejected by operation of law, are rejected, except the following, which are assumed:

Creditor	Arrears to be Cured in Plan	Nature of Contract or Lease	Treatment by Debtor	Post-Petition Payment
VW Credit Leasing, Ltd.	-0-	Auto Lease	Assume Lease pay per Court Order 9/4/2018	\$217.00 per month

Part 7: Motions ☒ NONE

NOTE: All plans containing motions must be served on all potentially affected creditors, together with local form, *Notice of Chapter 13 Plan Transmittal*, within the time and in the manner set forth in D.N.J. LBR 3015-1. A *Certification of Service, Notice of Chapter 13 Plan Transmittal and valuation* must be filed with the Clerk of Court when the plan and transmittal notice are served.

a. Motion to Avoid Liens Under 11. U.S.C. Section 522(f). ☒ NONE

The Debtor moves to avoid the following liens that impair exemptions:

Creditor	Nature of Collateral	Type of Lien	Amount of Lien	Value of Collateral	Amount of Claimed Exemption	Sum of All Other Liens Against the Property	Amount of Lien to be Avoided

b. Motion to Avoid Liens and Reclassify Claim from Secured to Completely Unsecured. ☒ **NONE**

The Debtor moves to reclassify the following claims as unsecured and to void liens on collateral consistent with Part 4 above:

Creditor	Collateral	Scheduled Debt	Total Collateral Value	Superior Liens	Value of Creditor's Interest in Collateral	Total Amount of Lien to be Reclassified

c. Motion to Partially Void Liens and Reclassify Underlying Claims as Partially Secured and Partially Unsecured. ☒ **NONE**

The Debtor moves to reclassify the following claims as partially secured and partially unsecured, and to void liens on collateral consistent with Part 4 above:

Creditor	Collateral	Scheduled Debt	Total Collateral Value	Amount to be Deemed Secured	Amount to be Reclassified as Unsecured

Part 8: Other Plan Provisions

a. Vesting of Property of the Estate

- ☒ Upon confirmation
☐ Upon discharge

b. Payment Notices

Creditors and Lessors provided for in Parts 4, 6 or 7 may continue to mail customary notices or coupons to the Debtor notwithstanding the automatic stay.

c. Order of Distribution

The Standing Trustee shall pay allowed claims in the following order:

- 1) Ch. 13 Standing Trustee commissions
- 2) Admin. atty's fees and costs to Debtor's counsel as awarded by the Court.
- 3) Priority claims to Internal Revenue Service
- 4) Unsecured Claims

d. Post-Petition Claims

The Standing Trustee ☐ is, ☒ is not authorized to pay post-petition claims filed pursuant to 11 U.S.C. Section 1305(a) in the amount filed by the post-petition claimant.

Part 9: Modification ☐ NONE

If this Plan modifies a Plan previously filed in this case, complete the information below.

Date of Plan being modified: 02/08/2019

Explain below **why** the plan is being modified:

To address the Objections filed by the Trustee, and Bank of America.
To discharge GE Money Bank mortgage.

Explain below **how** the plan is being modified:

The Debtor filed an Adversary Complaint to discharge a second mortgage of GE Money Bank, and is listing the home for sale rather than refinancing the mortgages. The proceeds will fund the Plan.

Are Schedules I and J being filed simultaneously with this Modified Plan? ☐ Yes ☒ No

Part 10: Non-Standard Provision(s): Signatures Required

Non-Standard Provisions Requiring Separate Signatures:

☐ NONE

☒ Explain here:

GE Money Bank second mortgage of record will be discharged. Debtor filed an Adversary Complaint to discharge the mortgage. It is a mortgage from June 2005 for financing a pool construction project. The project never took place and the contract was cancelled. No loan was ever received, no payments have ever been made, and no request for payment has ever been made. The Debtor will sell her home by December 31, 2019. After secured creditors are paid as much as they would receive in a Chapter 7, the Plan payments will cease, and the Plan will be completed even if less than 36 months. The Debtor will obtain a Deed for her ex-husband, Alfred Horta's, ownership in the property. The ex-husband's interest when obtained will not be used to fund the Plan.

Any non-standard provisions placed elsewhere in this plan are ineffective.

Signatures

The Debtor(s) and the attorney for the Debtor(s), if any, must sign this Plan.

By signing and filing this document, the debtor(s), if not represented by an attorney, or the attorney for the debtor(s) certify that the wording and order of the provisions in this Chapter 13 Plan are identical to Local Form, *Chapter 13 Plan and Motions*, other than any non-standard provisions included in Part 10.

I certify under penalty of perjury that the above is true.

Date: 08/10/2019


Debtor

Date: _____

Joint Debtor

Date: 08/10/2019

Attorney for Debtor(s)

Certificate of Notice Page 11 of 12

United States Bankruptcy Court
District of New JerseyIn re:
Cynthia P Horta
DebtorCase No. 18-23600-CMG
Chapter 13**CERTIFICATE OF NOTICE**

District/off: 0312-3

User: admin
Form ID: pdf901Page 1 of 2
Total Noticed: 21

Date Rcvd: Aug 06, 2019

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Aug 08, 2019.

db +Cynthia P Horta, 34 Bryce Canyon Road, Howell, NJ 07731-9050
 r +Michael Laico, Re/Max 1st Advantage, 170 Inman Avenue, Colonia, NJ 07067-1822
 517632113 Alfred Horta, 210 B Eatoncrest Dr. Bld. 19, Eatontown, NJ 07724
 517632115 Bank of America, POB 15227, Wilmington, DE 19886-5227
 517752186 Bank of America, N.A., Bank of America, P.O. Box 31785, Tampa, FL 33631-3785
 517632117 +Capital One, NA, PO Box 21887, Saint Paul, MN 55121-0887
 518017662 +GE Money Bank, 4246 S. Riverboat Road-Ste. 200, Salt Lake City, UT 84123-2582
 517632120 +Sarah E. Powers, Esq., Powers Kirn, LLC, 728 Marne Hgwy-Ste. 200,
 Moorestown, NJ 08057-3128
 517632122 +VW Credit Inc, POB 9013, Addison, TX 75001-9013
 517674408 +VW Credit Leasing, Ltd, c/o VW Credit, Inc., PO Box 9013, Addison, Texas 75001-9013

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
smg

E-mail/Text: usanj.njbankr@usdoj.gov Aug 07 2019 00:00:08 U.S. Attorney, 970 Broad St.,
 Room 502, Rodino Federal Bldg., Newark, NJ 07102-2534
 smg +E-mail/Text: ustpregion03.ne.ecf@usdoj.gov Aug 07 2019 00:00:04 United States Trustee,
 Office of the United States Trustee, 1085 Raymond Blvd., One Newark Center, Suite 2100,
 Newark, NJ 07102-5235
 517632116 +E-mail/PDF: AIS.COAF.EBN@Americaninfosource.com Aug 07 2019 00:02:41
 Capital One Auto Finance, PO Box 259407, Plano, TX 75025-9407
 517665411 +E-mail/PDF: acg.acg.ebn@americaninfosource.com Aug 07 2019 00:01:26
 Capital One Auto Finance, a division of Capital On, P.O. Box 4360, Houston, TX 77210-4360
 517645565 +E-mail/PDF: acg.acg.ebn@americaninfosource.com Aug 07 2019 00:01:26
 Capital One Auto Finance, a division of Capital On, AIS Portfolio Services, LP,
 4515 N Santa Fe Ave. Dept. APS, Oklahoma City, OK 73118-7901
 517632118 +E-mail/Text: electronicbkydocs@nelnet.net Aug 07 2019 00:00:10 Dept of ED/Nelnet,
 3015 Parker Road-Ste. 400, Aurora, CO 80014-2904
 517632119 E-mail/Text: cio.bncmail@irs.gov Aug 06 2019 23:59:37 Internal Revenue Service,
 PO Box 7346, Philadelphia, PA 19101-7346
 517750544 E-mail/PDF: PRA_BK2_CASE_UPDATE@portfoliorecovery.com Aug 07 2019 00:14:06
 Portfolio Recovery Associates, LLC, c/o Synchrony Bank, POB 41067, Norfolk VA 23541
 517633097 +E-mail/PDF: gecsed@recoverycorp.com Aug 07 2019 00:01:55 Synchrony Bank,
 c/o of PRA Receivables Management, LLC, PO Box 41021, Norfolk, VA 23541-1021
 517632121 E-mail/PDF: gecsed@recoverycorp.com Aug 07 2019 00:02:33 Synchrony Bank/Care Credit,
 PO Box 956036, Orlando, FL 32896-5036
 517658616 +E-mail/Text: electronicbkydocs@nelnet.net Aug 07 2019 00:00:10
 US Department of Education c/o Nelnet, 121 South 13th Street, Suite 201,
 Lincoln, NE 68508-1911

TOTAL: 11

***** BYPASSED RECIPIENTS (undeliverable, * duplicate) *****

lm BANK OF AMERICA, N.A. P.O BOX 31785 TAMPA, FL 3363
 517632114* Alfred Horta, 210 B Eatoncrest Dr. Bld. 19, Eatontown, NJ 07724

TOTALS: 1, * 1, ## 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
 USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Aug 08, 2019

Signature: /s/Joseph Speetjens**CM/ECF NOTICE OF ELECTRONIC FILING**

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on July 30, 2019 at the address(es) listed below:

Albert Russo on behalf of Trustee Albert Russo docs@russotrustee.com
 Albert Russo docs@russotrustee.com
 Bunce Atkinson on behalf of Plaintiff Cynthia P Horta bunceatkinson@aol.com
 Bunce Atkinson on behalf of Debtor Cynthia P Horta bunceatkinson@aol.com
 Denise E. Carlon on behalf of Creditor VW Credit Leasing, Ltd dcarlon@kmlawgroup.com,
 bkgroup@kmlawgroup.com

District/off: 0312-3

User: admin
Form ID: pdf901

Page 2 of 2
Total Noticed: 21

Date Rcvd: Aug 06, 2019

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email)
system (continued)

Jason Brett Schwartz on behalf of Creditor Capital One Auto Finance
jschwartz@mesterschwartz.com
Rebecca Ann Solarz on behalf of Creditor VW Credit Leasing, Ltd rsolarz@kmlawgroup.com
U.S. Trustee USTPRegion03.NE.ECF@usdoj.gov
William M.E. Powers on behalf of Creditor Bank of America, N.A. ecf@powerskirn.com
William M.E. Powers, III on behalf of Creditor Bank of America, N.A. ecf@powerskirn.com
TOTAL: 10